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SUBMISSION VIA FOIAONLINE.REGULATIONS.GOV

Regional Freedom of Information Officer
U.S. EPA, Region 6
1445 Ross Avenue (6MD-OE)
Dallas, Texas 75202-2733

Re: **Freedom of Information Act Request**

Dear Regional FOIA Officer:

Please accept this request, on behalf of my client, Luminant Generation Company LLC ("Luminant"), for information under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and the U.S. Environmental Protection Agency's ("EPA") FOIA regulations at 40 C.F.R. Part 2. I am requesting the following documents related to the report¹ prepared by Synapse Energy Economics, Inc. ("Synapse") cited on page 345 of the final regional haze rule for Texas and Oklahoma (81 Fed. Reg. 296, 345 (Jan. 5, 2016)):

1. Any and all records reflecting communications or correspondence between EPA and Synapse about the report or Synapse's work on the report;
2. Any and all documents prepared by Synapse related to the report;
3. Any and all documents provided by EPA to Synapse that were used in preparing the report; and
4. A copy of the contract between EPA and Synapse for the preparation of the report and any underlying contract documents, including invoices.

We believe that the information requested above is publicly available and not exempt from mandatory disclosure under FOIA. However, to the extent that EPA believes one or more of the records described above qualify for withholding under a FOIA exemption, we respectfully request that EPA exercise discretionary disclosure.

Should EPA ultimately decide to withhold any responsive information, please describe for each record withheld (1) under which of the categories described above the record falls, and (2) the basis

¹ The report is titled "Assessing the December 2014 ERCOT Report on Environmental Regulations" and is addressed to EPA Region 6 and EPA Headquarters. It is identified on the docket as "TX166-087-131 Synapse Report - ERCOT_Report_Review_Memo_20150908."

upon which EPA relies for its decision to withhold the record. As you are aware, it is ultimately the agency's burden to establish the applicability of any FOIA exemption.² Therefore, for any withholding, please provide a description sufficient to determine what information is being withheld and the specific reason(s) for the withholding.

Please provide any and all records responsive to this FOIA request in electronic format and, where practicable, in native format.

We are willing to pay the costs associated with EPA's response to this FOIA request up to \$1,000 without further authorization. Should the costs exceed this amount, please contact me to discuss further cost assurance as soon as possible so as not to delay EPA's response.

Thank you for your attention to this matter. Should you have any questions, please contact me at (205) 226-8735 or sgidiere@balch.com.

Best regards,



P. Stephen Gidiere III

²See 5 U.S.C. § 552(a)(4)(B) (providing that "the burden is on the agency to sustain its action" to withhold records under a FOIA exemption); see also, e.g., *Department of State v. Ray*, 502 U.S. 164, 173 (1991) (explaining that it is agency's burden "to justify the withholding of any requested documents"); *DOJ v. Tax Analysts*, 492 U.S. 136, 142 n.3 (1989) ("The burden is on the agency to demonstrate, not the requester to disprove, that the materials sought are not 'agency records' or have not been 'improperly' 'withheld'").